

## § 235.8

(ii) The elimination of existing track other than a second main track;

(iii) The extension or shortening of a passing siding;

(iv) Elimination of second main track where signal system mn retained main track and is arranged to provide both opposing and following protection for train movements provided second main track is physically removed; or

(v) A line relocation; or

(vi) The conversion of pole line circuits to electronic (coded) track circuits provided that the railroad gives notice and a profile plan of the change to the FRA regional office having jurisdiction over that territory at least 60 days in advance of the change. The railroad must also at the same time provide a copy of the notice and profile plan to representatives of employees responsible for maintenance, inspection and testing of the signal system under 49 CFR Part 236. The signal system modification will be deemed acceptable, unless within 60 days, the Regional Administrator stays action by written notice to the railroad and refers the issue to the Railroad Safety Board for decision.

(25) The temporary or permanent arrangement of existing systems necessitated by highway rail separation construction. Temporary arrangements shall be removed within six months following completion of construction.

[49 FR 3380, Jan. 26, 1984, as amended at 61 FR 33873, July 1, 1996]

### § 235.8 Relief from the requirements of part 236 of this title.

Relief from the requirements of the rules, standards and instructions contained in part 236 of this title will be granted upon an adequate showing by an individual carrier. Relief heretofore granted to any carrier shall constitute relief to the same extent as relief granted under the requirements of this part.

(Approved by the Office of Management and Budget under control number 2130-0043)

### § 235.9 Civil penalty.

Any person (an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or

## 49 CFR Ch. II (10-1-07 Edition)

other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$550 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$27,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See appendix A to this part for a statement of agency civil penalty policy.

[63 FR 11623, Mar. 10, 1998, as amended at 69 FR 30595, May 28, 2004]

EFFECTIVE DATE NOTE: At 72 FR 51197, Sept. 6, 2007, paragraph §235.9 was amended by removing the numerical amount “\$11,000” and adding in its place the numerical amount “\$16,000”, effective October 9, 2007.

### § 235.10 Contents of applications.

(a) The application may be submitted by letter and shall contain the following information:

(1) The corporate name of each applicant;

(2) The manner in which applicant is involved;

(3) The location of the project, giving name of operating division and nearest station;

(4) The track or tracks involved;

(5) A complete description of proposed changes as they would affect the existing facilities or of the section from which relief is sought;

(6) The reason for proposed changes or justification for relief from the requirements;

(7) The approximate dates of beginning and completion of project;

(8) Changes in operating practices, temporary or permanent;

(9) Whether safety of operation will be affected, and if so, how; and